

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed September 5, 2007. Claim 27 is amended. No claims are canceled or added. Claims 4-15, 22, 23, 26-28, and 30-40 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicants note that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicants, of additional or alternative distinctions between the claims of the present application and any references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Allowed Subject Matter

The Examiner's allowance of claims 4-15, 22-23, 26, 28, and 30-40 is appreciated. Applicants wish to thank the Examiner for the careful review and allowance of those claims.

The Applicants submit the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. Applicants agree with the Examiner that the claimed invention of claims 4-15, 22-23, 26, 28, and 30-40 is patentable over the prior art, but respectfully disagrees with the Examiners statement of reasons for allowance as set forth in Office Action. Applicants submit that it is the claim as a whole, rather than any particular limitation, that makes each of the claims allowable. No single limitation should be construed as the reason for allowance of a claim because it is each of the elements of the claim that makes it allowable. Therefore, Applicants do not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claims allowable and do not make any admission or concession concerning the Examiner's statement in the Office Action.

III. Rejection Under 35 U.S.C. §102(e)

The Examiner rejects claim 27 under 35 U.S.C. § 102(e)¹ as being anticipated by *Chieng et al.* (United States Patent No. 6,862,302). Applicants respectfully note that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure* ("MPEP") § 2131.

As shown above, Applicants have amended claim 27 to recite in part "wherein the laser diode and laser driver are arranged such that the laser driver can bias the laser diode through two alternate paths, wherein one of the paths includes a pair of switches arranged to enable selective coupling of the laser driver to the laser diode." Support for such amendment is found at least Figure 3 and paragraphs [0022]-[0029] of the specification.

¹ Because *Chieng* is only citable under 35 U.S.C. § 102(e), Applicant does not admit that *Chieng* is in fact prior art to the claimed invention but reserve the right to swear behind *Chieng* if necessary to remove it as a reference.

As noted by the Examiner in the statement of allowance for claim 4, the prior art of record does not teach the limitations added to claim 27 in conjunction with the other limitations of that claim. Accordingly, Applicants respectfully submit that claim 27 is allowable over the prior art of record for at least the reasons that claim 4 is allowable and ask that the rejection of this claim be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe that they have addressed every issue raised in the Office Action and has put the claims in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 24th day of January, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric L. Maschoff".

ERIC L. MASCHOFF
Registration No. 36,596

SHANE K. JENSEN
Registration No. 55,301
Attorneys for Applicants
Customer No. 022913
Telephone: (801) 533-9800

ELM:SKJ:ajb
W:\15436\171.1\KJN0000005448V001.doc